

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively  
Consolidated SIPA Liquidation of Bernard L.  
Madoff Investment Securities LLC and Bernard L.  
Madoff,

Plaintiff,

v.

LOMBARD ODIER DARIER HENTSCH & CIE,

Defendant.

Adv. Pro. No. 12-01693 (CGM)

**STIPULATION AND ORDER TO AMEND CAPTION AND  
DISMISS CERTAIN TRANSFERS ALLEGED IN THE COMPLAINT**

Plaintiff Irving H. Picard (the “Trustee”), as trustee for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities (“BLMIS”) and the estate of Bernard L. Madoff, and defendant Lombard Odier Darier Hentsch & Cie (“Lombard,” and with the Trustee, the “Parties”), by and through their respective, undersigned counsel, stipulate as follows:

**WHEREAS**, on June 6, 2012, the Trustee commenced the above-captioned adversary proceeding by filing a complaint (the “Complaint”) against Lombard, then known as Lombard Odier Darier Hentsch & Cie, to recover alleged subsequent transfers allegedly received from Fairfield Sentry Limited (“Fairfield Sentry”), Fairfield Sigma Limited (“Fairfield Sigma”), and Kingate Global Fund, Ltd. (“Kingate Global”). ECF No. 1;

**WHEREAS**, on August 6, 2019, the Court entered an Order Pursuant to Section 105(a) of the Bankruptcy Code and Rules 2002 and 9019 of the Federal Rules of Bankruptcy Procedure approving a settlement agreement (“Settlement Agreement”) by and among the Trustee and Kingate Global and Kingate Euro Fund, Ltd. (“Kingate Euro,” and together with Kingate Global, the “Kingate Funds”). *Picard v. Ceretti*, Adv. Pro. No. 09-01161 (CGM) (Bankr. S.D.N.Y. Aug. 6, 2019), ECF No. 417. The Settlement Agreement was a full and final settlement and satisfaction of the Trustee’s claims against the Kingate Funds. *Picard v. Ceretti*, Adv. Pro. No. 09-01161 (CGM) (Bankr. S.D.N.Y. July 17, 2019), ECF No. 413-2. The release granted by the Trustee in the Settlement Agreement extended to the Kingate Funds’ shareholders to the extent that any such shareholders, like Lombard, received transfers of money from the Kingate Funds but did not include a release of claims that the Trustee may bring that are unrelated to the Kingate Funds’ investments in or withdrawals from BLMIS. *Id.*; and

**WHEREAS**, after the filing of the Complaint, the Trustee determined that five transfers from Fairfield Sentry to Lombard should be dismissed. These transfers total \$2,083,919.36 and are identified in the attached Schedule 1 (the “Dismissed Fairfield Sentry Subsequent Transfers”);

**IT IS HEREBY STIPULATED AND AGREED**, by and between the Parties, and **SO ORDERED**, by the Court:

1. Pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, as incorporated by Rule 7015 of the Federal Rules of Bankruptcy Procedure, the Trustee amends his Complaint to dismiss Count Two against Lombard. Specifically, the Trustee's claims to recover subsequent transfers that Lombard allegedly received from Kingate Global, totaling approximately \$82,557,009, are hereby dismissed.

2. Pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, as incorporated by Rule 7015 of the Federal Rules of Bankruptcy Procedure, the Trustee amends his Complaint to dismiss the Dismissed Fairfield Sentry Subsequent Transfers identified on Schedule 1. Except as set forth herein, this stipulation and order has no effect on the remaining allegations in Count One of the Complaint, including the remaining Fairfield Sentry Subsequent Transfers that Lombard allegedly received, which total approximately \$93,511,465.60, and the Fairfield Sigma Subsequent Transfers, which total approximately \$1,279,986.

3. The caption for the Complaint is amended to reflect the current name of Lombard, consistent with the attached Exhibit A.

4. This stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic, or electronic copy of this stipulation shall be deemed an original.

Dated: January 26, 2022  
New York, New York

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Madoff Investment Securities LLC and the  
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**SO ORDERED.**

**Dated: January 27, 2022  
Poughkeepsie, New York**



**/s/ Cecelia G. Morris**

**Hon. Cecelia G. Morris  
Chief U.S. Bankruptcy Judge**

# **SCHEDULE 1**

**Schedule 1 to Stipulation And Order Regarding Dismissal  
of Certain Transfers Alleged in the Complaint**

<b>BLMIS Feeder Fund</b>	<b>Date of Subsequent Transfer</b>	<b>Amount of Subsequent Transfer</b>
Fairfield Sentry	2/14/2003	\$53,919.36
Fairfield Sentry	4/28/2008	\$120,000.00
Fairfield Sentry	7/29/2008	\$200,000.00
Fairfield Sentry	7/29/2008	\$1,150,000.00
Fairfield Sentry	7/29/2008	\$560,000.00
<b>TOTAL</b>		<b>\$2,083,919.36</b>

# **EXHIBIT A**



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